County of Los Angeles
SHERIFF'S DEPARTMENT

HIT SHOOTING (ON-DUTY) EVALUATION
Suspect Deceased

UNIT: Special Enforcement Bureau
DATE: August 10, 2008, Sunday
TIME: 2044 hours
LOCATION: [redacted]
URN#: 008-17909-2112-013
IAB#: SH2225821

NATURE OF INCIDENT: On August 10, 2008, at about 2045 hours, during a Hostage Rescue operation, SEB Deputy Clarence Gallegos, Employee #[redacted] assigned as rear containment sniper, shot Suspect Gerardo Arvallo (MH/32) at [redacted] in response to Century Station's call for service regarding an "assault with a deadly weapon in progress."

The following is a summary of the events:
Century Station patrol personnel arrived at the location and contacted Victim [redacted] (FH/28), who was shot in the stomach by her [redacted] (Suspect Arvallo), and [redacted] Victim [redacted] stated Suspect Arvallo had been drinking heavily, and was still inside the location, armed with a handgun, and was threatening not to be taken alive. The suspect was also holding [redacted], hostage, and the victim feared for her [redacted]s safety. Century Station deputy personnel contained the location and attempted to contact Suspect Arvallo via their radio car public address system; however, he refused to exit the location. Communication with the suspect was established via a cell phone and the suspect refused to release his [redacted] and threatened to kill himself. Based on the barricaded incident and developing information, the Sheriff's Special Weapons Team and Crisis Negotiations Team were deployed to the location.

Due to the initial call for service and subsequent contacts with the suspect through family members, as well as a Sheriff's department negotiator, the Special Weapons Team Commander, Lieutenant Phil Hansen, determined the barricaded incident had transitioned into a hostage rescue operation.

Lt. Hansen stated the following factors were known and present at the time:

1) A victim had been shot.
2) The suspect was armed with a gun.
3) The suspect was holding his [redacted] as a hostage.
4) The suspect made suicidal comments indicating he would be seen in a coffin.
5) The incident was an ongoing threat, which presented both immediate and imminent danger for the [redacted] the entry team, and the suspect himself.
6) The suspect was using his [redacted] as a human shield.

Lt. Hansen said based on the totality of the circumstances, and the known factors at the current time, a crisis entry team was staged for a hostage rescue operation. He stated all the information that he received was communicated to the Special Weapons Team members, who were in tactical positions of containment, via Sheriff's hand-held radio.

As the Special Weapons Team was deployed, Major Crimes Detective [redacted] Employee # [redacted] had already established a communications link with the suspect via a cell phone for purposes of negotiations. While Detective [redacted] was speaking to the suspect, he was positioned inside a detached residence directly in front of the suspect's house which afforded him an unobstructed view of the suspect's residential rear window. During their conversation, Detective [redacted] stated Suspect Arvallo appeared at the rear window of the target location several times using the [redacted] as a human shield.

> **IAB Note:** Refer to Exhibit A for a summary of [redacted]'s interview with Homicide detectives.

At one point, when the suspect appeared at the window without the [redacted] Deputy Gallegos, assigned as rear containment sniper, fired one round from his department-issued, 9mm, H&K MP5, striking the suspect in the left eye. The crisis team quickly made an explosive breached entry into the location and rescued the [redacted] Suspect Arvallo was pronounced dead at the scene by Emergency Services Detail paramedics.

The [redacted] was not injured.

A .22 caliber semiautomatic pistol, and one expended 9mm shell casing was recovered at the scene.

Internal Affairs Bureau was notified at 0015 hours, whereby Lieutenant Don Slawson along with Sergeant's Frank Quichocho and Diana Gealta responded to the location to conduct a Shooting Review of the incident.

On February 19, 2009, Deputy District Attorney Susan Schwartz issued a Letter of Opinion concerning the deputy-involved shooting. The District Attorneys conclusion stated the following:

> **"The evidence examined in this investigation shows that Gerardo Arvallo was drunk and angry when he shot his [redacted] in the stomach at close range. She fled her residence and he held her [redacted] hostage. He refused to come out of the residence and refused to release the [redacted]. He told negotiators that he was going to kill himself, or have the deputies kill him. As he spoke with the negotiator, he used his [redacted] as a human shield.**
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> **Deputy Gallegos, a member of a team trained to deal with hostage rescue situations, was aware of the grave danger Arvallo posed to his [redacted]. Reasonably fearing that Arvallo would kill the [redacted] Gallegos discharged his weapon once, striking Arvallo in the eye and killing him.**
>
> **We find that Deputy Gallegos acted in a lawful defense of others. We are closing our file and will take no further action in this matter."**
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> <u>**IAB Note**</u>: Refer to Exhibit A, for a detailed copy of the Letter of Opinion issued by the Los Angeles County District Attorney's Office regarding the deputy-involved shooting.

The following summary is based on written documentation, and interviews of involved deputies.

<u>INVOLVED PERSONNEL:</u>

Gallegos, Clarence G., Deputy Sheriff, Employee #[redacted]
Special Enforcement Bureau
Office of Homeland Security

EMPLOYEE WORK HISTORY:

Date of Employment:	02-11-1987
Date Assigned to Patrol:	[redacted]
Completed Patrol Training:	[redacted]

Prior Shooting Incident(s): 11-17-1992: [redacted]
06-21-2001: [redacted]
08-31-2001: [redacted]
Prior Founded Force Incidents: [redacted]

INVOLVED SUSPECT (Deceased):

Arvallo, Gerardo, MH/32, DOB: 12-30-75, 5'10/172, Blk/Bro,
Address: [redacted] Home: [redacted]

Involved Suspect Criminal History:
Suspect Arvallo's arrest records [redacted]

IAB Note: Refer to Exhibit A, for a detailed copy of Suspect Arvallo's consolidated criminal history report (CCHRS).

VICTIM'S:

1. [redacted]
2. [redacted]

IAB Note: Refer to Exhibit A for a summary of the Homicide interview.

CIVILIAN WITNESSES:

1. [redacted]
2. [redacted]

IAB Note: Refer to Exhibit A for a summary of the Homicide interview.

DEPARTMENT WITNESS(S):

1) **Hansen, Phillip C., Lieutenant, Employee #**[redacted]
Special Enforcement Bureau
Office of Homeland Security

2) Ramirez, Andres, Lieutenant, Employee #[redacted]
Crisis Negotiations Team
Office of Homeland Security

Interviewed by Homicide Bureau:

SEB Crisis Entry team and containment personnel:

1) Gallegos, Clarence, Employee #[redacted]
2) Davis, Greg, Employee #[redacted]
3) Vasquez, David, Employee #[redacted]
4) Diliberti, Richard, Employee #[redacted]
5) Burke, Sean, Employee #[redacted]
6) Hilgendorf, Kevin, Employee #[redacted]
7) Palomino, Joseph, Employee #[redacted]
8) Johnson, Donnie, Employee #[redacted]
9) Baudino, Anthony, Employee #[redacted]
10) Schultz, Mark, Employee #[redacted]

IAB Note: Refer to Exhibit A for a summary of the Homicide interviews.

INVOLVED EMPLOYEE STATEMENTS:

Deputy Clarence Gallegos, Employee #[redacted] was interviewed by Internal Affairs Sergeants Frank Quichocho and Teri Roberts on October 5, 2009, at approximately 1031 hours. Deputy Gallegos voluntarily agreed to the interview without a representative present. The interview was tape recorded and the following is a summary of the interview.

Deputy Gallegos said he was notified via a pager by the Special Enforcement Bureau desk about the barricaded incident at Century Sation. Upon arrival, he was quickly briefed by the SEB Tactical Commander, Lt. Phil Hansen, regarding the situation and then contacted his Team Leader, Sergeant Donnie Johnson, along with SEB Scout, Joe Palomino, and Back-up Scout, Kevin Hilgendorf for further detailed information.

The information Deputy Gallegos received from his Team Leader, Sergeant Donnie Johnson, and Scout, Kevin Hilgendorf, was that a woman was shot in the stomach by her [redacted] he was holding [redacted] inside the home, he was armed with at least one gun, and he refused to come out of the residence. Additional information included the suspect was holding his [redacted] up to the window as a shield, was not going to give himself up, and said goodbye to his family via cell phone contact indicating the next time they saw him, it would be in a box (coffin). The suspect also had an arrest warrant and said he was not going back to jail.

Deputy Gallegos stated that prior to his arrival, the barricaded incident transitioned into a hostage rescue operation. After he was briefed by his Team Leader and Scout, Deputy Gallegos said he was assigned to Long Rifle 1, a sniper position, and was posted at the rear of the residence, directly in front of the rear window, which was where the suspect was previously seen holding the [redacted] up as a shield. Deputy Gallegos stated he was about 30 feet away from the window, crouched down behind a parked vehicle. At this time, Deputy Gallegos stated that SEB Team Commander, Lt. Hansen, reiterated over the radio all the previous information he received from his Team Leader and Scout, as well as stating he was treating the incident as a legitimate hostage rescue situation adding that based on the suspect's comments, actions, and demeanor, he (Lt. Hansen) was taking it as a serious threat and that they were to consider the incident as a serious hostage rescue.

During his deployment, Deputy Gallegos said he was initially partnered up with SEB Deputies Greg Davis, and Jim Corrigan; however, they left for better positions of deployment and for a broader view of the rear window. They split the rear side of the residence for a better visual into the location and Deputy Gallegos remained at his original spot, which was about 30 feet directly in front of the rear window.

As Deputy Gallegos made his way through the separate and detached front residence located at [redacted] in order to get to his designated rear containment position, he said he briefly spoke to Detective [redacted] who was staged inside the house. He said Detective [redacted] told him that the suspect came up to the rear window of [redacted] (detached rear location) using the [redacted] as a shield, as he was attempting to get him to surrender; however, the suspect was uncooperative. Deputy Gallegos stated that after he exited the front house, he no longer saw Detective [redacted]

During the entire incident, Deputy Gallegos said he did not see the suspect using the [redacted] as a shield.

A schematic diagram drawn by Sheriff's Crime Scene personnel was presented to Deputy Gallegos, who stated it was a fair and accurate description of the area with the exception of a vehicle, which he used for cover. He said the vehicle was directly in front of and in line with the rear window, which afforded him the opportunity to kneel down behind the front driver's tire giving him a visual observation over the hood and straight into the window. He stated the window was approximately two and half feet by four feet in size, and offset from the ground where a person as tall as him, about five feet nine inches, would be able to stand and look into the window with only the shoulders and head exposed.

IAB Note: Refer to Exhibit B, for a copy of the crime sketch diagram drawn by Scientific Services Bureau.

Deputy Gallegos stated the weapon he used was a 9mm, MP-5 submachine gun, which is not a weapon technically used for a Long Rifle deployment; however, it was a weapon he felt was necessary for the incident due to the short distance involved between his position and the target area. He said the typical weapons normally associated with a long rifle deployment would be a bigger bore .308 with a scope, and bipod, or the M-4 fully automatic machine-gun for long distances. He stated that in this situation, the distance was too close for the long range rifles.

Deputy Gallegos said the lighting conditions were dark with ambient light emanating from the street lights.

Deputy Gallegos said his backdrop was the rear window target and into the interior of the suspect's residence.

While positioned as rear containment for about 20-30 minutes, Deputy Gallegos said he saw a head come up to the window. He illuminated the window with the light mounted on his weapon in order to ascertain if the individual was either a man or [redacted]. As the light shined onto the glass window it reflected off of it and obscured his vision for a moment. When Deputy Gallegos turned his light off, Deputy Davis illuminated the window, which in turn gave him a better view of the individual as the glare no longer affected him. At this point, Deputy Gallegos determined the individual was definitely a man and not a [redacted].

Deputy Gallegos stated while he was in position, the suspect came up to the window only once and did not hold a [redacted] in front of him.

The following is an excerpt from Deputy Gallegos' transcripts on Page 9, Line42:

Quichocho: In your mind was there either an ongoing threat or imminent and immediate threat as all this was transpiring?

Gallegos: With all that information, including the fact that he had been drinking and that there was possibly another weapon inside, and the fact that, that he had been using that [redacted] as a shield up at the window, prior to my arrival, all those factors played into the, to my decision making as to, this man was pretty serious, and that something bad could happen if something wasn't done.

Quichocho: And so...I only have a couple more questions. Just based on the totality of all the circumstances that you were, or you had known at the time, your perception...what was your perception when that suspect came up to the window and you were gonna take the shot?

Gallegos: Here's, here's, here's what I was thinking at...prior to him putting his face up to the

window, and to the time I took the shot, is this. If, if, if he never had showed his face to that window, and shots would have been fired in that room or in that little apartment they're in, our Deputies would have had to place, you know, blow that explosive charge and go inside to try to save this [redacted] He's already shown that he's willing to use that [redacted] as a shield. Now with the explosion going off and the smoke that, that's gonna envelope that room, along with this guy using the [redacted] as a shield, armed with a handgun that we knew he already had, the fact that he was, had been drinking, and the fact that he said he wasn't going back to jail, and that he was willing to die, there's a good chance that when our guys had to go in, if that occurred, that either the [redacted] would be injured by us mistakenly, by the suspect, or that our guys would be shot by this guy, the suspect, in their attempts to rescue this [redacted] That's all bad, bad things that could happen if we let this continue to play out. When he raised his face up to the window, and I saw and I confirmed that it was just him...and that was the information too. I don't think we alluded to that it was just him inside there and this [redacted] Those were the only two people inside this place. That moment, I had the opportunity to make sure that all those bad things that I just discussed wouldn't happen if I did my job correctly. I could stop all of that from ever occurring by shooting him. If I didn't and I let him go, then...and he never showed his face again at that window, then I'm leaving it all up to him to decide what happens. Now I don't know what was gonna happen if I didn't do that shot. Maybe he gives up. But when you weigh that with all the bad things that could happen, I couldn't let him, I couldn't let him walk away from that window, when I had the opportunity to, to, to make it safer for that [redacted] by stopping him right then. And that's when the decision for me was made, that, to take that shot. It was just too...there was just too much risk to that [redacted] and to the Deputies and to that guy, to let it go any further than what it was.

Deputy Gallegos stated there is no such thing as a green light/red light concept regarding their sniper authority in the use deadly force. He said that concept is a misnomer, and that SEB's shooting policy is the same as everybody else's in the Sheriff's Department regarding shootings. He said SEB's shooting policy is the same exact standard as the departments' shooting policy for patrol personnel. In this particular case, Deputy Gallegos stated imminent threat existed toward the [redacted] and deputy personnel.

The following is an excerpt from Deputy Gallegos' transcripts on Page 11, Line 29:

Quichocho: After you took the shot, what happened?

Gallegos: I got on the radio and I informed the team that I had taken a shot. I said, Long Rifle 1. Shot...I think I said, shot's away. Suspect's down. There was some, there was some confusion at that moment because some of the people nearby me heard it on the radio, they told me later. But the Crisis Entry Team that was staged towards where that door was with the charge on it...they apparently didn't hear me. So there

was a lull there. Now I...once I shot him, he fell out of view. And I started to stand up as I was putting out the radio traffic. And, and part of my plan was if...part of the plan was if this happened to go to a crisis, if I didn't shoot, and let's say that the, there were shots fired inside the location, and the crisis team had to make entry to save the [redacted] my job and Deputy Davis' job was to approach that window where ultimately he was at. Deputy Davis was to break that window out with a, with a pole, and I was to cover that window as the entry team was gonna make their approach to the inside. When I shot him and he fell, I stood up and I was contemplating moving to that window prior to the breach, getting in position for that. Because I didn't know...he fell so quickly after I shot him that, like any, any shooting, you go, did I, did I incapacitate him to the point where he is not gonna hurt that [redacted] And that was my concern. But I knew that that charge was going to go, 'cause I already told them what I had done. And believing that they had heard me, I was waiting for the charge to go and then make my approach. But there was a lull there. There was...it seemed like forever to me, and I don't know what the time frame was. 20, 30 seconds. Before finally that charge went. Now once that charge finally went, Davis and I approached that window. He broke it out. I stuck my gun in there. I saw the suspect was down, slumped down right below the window, and that the baby was on the floor by his feet. And she was looking up at me. And the entry team was coming in. I yelled at the team members, grab the baby, grab the baby. One of the Deputies came up. I think it was Deputy Diliberti. He scooped her up. She was okay. They got her out. And then the suspect was ultimately found there on the, on the, underneath the window. And he was, he was hurt.

Deputy Gallegos stated his shot was aimed at the suspects eye. He said after the crisis team made entry and the [redacted] was rescued, paramedics from SEB rendered aid to the suspect, and eventually pronounced him dead.

Deputy Gallegos said an explosive charge was used by the crisis entry team to facilitate their movement into the residence to rescue the [redacted] He said a flash bang was not used.

IAB Note: Refer to a copy of Deputy Gallegos' transcribed interview for further detail.

DEPARTMENT WITNESS STATEMENTS:

Lieutenant Phillip C. Hansen, Employee #[redacted] was interviewed by Internal Affairs Sergeant Frank Quichocho and Teri Roberts on September 9, 2009 at 1004 hours, at Emergency Operations Bureau. The interview was tape recorded and the following is a summary of the interview.

Lieutenant Hansen said he was the SEB Tactical Commander on the date of the incident when he received a call at home from Century Station desk regarding an assault with a deadly weapon on Los Flores Blvd., City of Lynwood, which turned into a barricaded incident.

The initial information Lieutenant Hansen received from Century Desk personnel was that a woman was shot by her [redacted] in the abdominal area, and that he was armed with a weapon inside his residence, and was holding [redacted] refusing to release her.

Based on the initial information, Lieutenant Hansen authorized the deployment of the entire On-call weapon's team to the location. He said due to the potential hostage situation, he gave Century Station his cell phone number for up to date information as he began his response from home. About fifteen minutes later, Lieutenant Hansen said he received a cell phone call from Century Desk personnel indicating the suspect had made comments about committing suicide. He then related the information to the special weapon's team concerning the potential suicide information.

Lieutenant Hansen stated that prior to his arrival at the command post, the special weapon's team established an inner perimeter containment of the location, as well as setting up a crisis entry team and a long rifle sniper position. He said the long rifle assignment in this particular case was not the traditional long rifle, scoped .308, due to the short distance involved in the tactical situation and that other weapons were a better choice from the standpoint of tactics.

> **IAB Note:** Refer to Deputy Gallegos' transcripts for his choice of weapons.

Once he arrived at the command post, Lieutenant Hansen said he met with Lieutenant Eli Vera, the Century Station patrol Watch Commander. At the command post were relatives of the suspect, which were a [redacted] and [redacted]. SEB personnel continued to respond with additional resources and deployed into positions of containment. A crisis entry team was implemented and an explosive breach was initiated if necessary, as well as the deployment of long rifle assets to provide a complete coverage of the residence.

As the incident was developing, Lieutenant Hansen said Detective [redacted] from Major Crimes Bureau, attempted to establish rapport with the suspect via cell phone contact. He said the contacts were intermittent, and was allowed to continue pending the arrival of the Crisis Negotiations Team (CNT). When Lieutenant Andres Ramirez from CNT arrived at the command post, they shared information on what SEB's plans were going to be. A mutual agreement was made not to use a throw-in phone as the suspect may interpret it as an assault or overt act on their part, thus harming the [redacted]

Lieutenant Hansen said it was Lieutenant Ramirez's intention to continue the cell phone contact with the suspect using Detective [redacted] as the lead negotiator, as it appeared he had developed a rapport with the suspect; therefore, decided to utilize him as a resource.

Lieutenant Hansen stated a lot of things were happening all at one time. He said a request came from his Team Leader, Sergeant Donnie Johnson, to place an explosive charge on the front door of the suspect's residence, and he authorized it. He said the purpose for placing the explosive charge was if they felt there was an emergent need to get into the residence quickly, the charge would provide a positive breach, and a diversion as well. Based on the nature of the incident, and the difficult, dangerous, and narrow passageway leading to the front door, as well as a window being adjacent to the front door, the possibility of a failed breach by a ram would place the crisis entry team in a position to take rounds through the door while attempting forced entry.

The suspect's location was described by Lieutenant Hansen as a detached rear apartment type dwelling. A front house is also located on the premises, while the rear detached garage also has an apartment built onto it. He said the detached garage is actually a two-story dwelling; however, the suspect was limited to only a room and kitchen on the bottom floor.

Lieutenant Hansen said tactical plans were discussed over the radio several times so that everybody would be on board concerning what was happening, as well as what the sequence of events would be in the event a crisis entry was initiated.

At the command post, Lieutenant Hansen said he was asked by relatives of the suspect, if they would be able to speak to him. [redacted] and [redacted] were afforded the opportunity to speak to Suspect Gerardo Arvallo as Lieutenant Hansen allowed the conversation to take place on the condition of telling the suspect that he needed to release the [redacted] as that was law enforcement's primary concern and that they were not going to hurt him. Lieutenant Hansen said after the conversation was over, [redacted] told him the suspect was not going to release the [redacted] and said "goodbye" to her stating the next time she saw him, he would be in a coffin.

Lieutenant Hansen said the suspect's comment to his [redacted] was very alarming to him because it showed instability and certainly sounded suicidal. He then related all the information to the special weapon's team via radio telling them he believed the incident was now a full-blown hostage rescue situation.

Lieutenant Hansen stated the information he provided to his team telegraphed what their potential actions might be when he said he believed the incident was a righteous hostage situation and articulated all of his reasons to them as follows:

1. **The victim [redacted], had been shot in the abdomen.**
2. **The suspect was armed with a gun.**
3. **The suspect was holding his [redacted] as hostage, refusing to release her.**
4. **The suspect made suicidal comments.**
5. **The suspect stated the next time they saw him, it would be in a coffin.**

Based on the listed reasons, Lieutenant Hansen interpreted it to be an immediate and ongoing threat to the safety of the [redacted]. Due to his articulation, and the known factors at the time of the incident, Lieutenant Hansen said he wanted his personnel to know with complete confidence that if they decided to take a shot at the suspect and end the situation that they knew why they were doing it and that they had proper justification for doing it. He stated the information was put out over the radio to his troops.

Lieutenant Hansen said information was related to him that the suspect would appear at the window holding the [redacted] up in front of him where personnel would only be able to see the suspect or [redacted] partially. Based on the suspect's actions, Lieutenant Hansen said he believed the suspect was holding the [redacted] up as a shield to protect himself while placing the [redacted] in harm's way.

Finally, a shot was taken by Deputy Gallegos, who stated the suspect was down. Lieutenant Hansen said by Standard Operating Procedure, and training, the gunshot taken by Deputy Gallegos transferred on-site authority to the crisis entry team leader to perform a crisis entry due to concerns of a merely wounded suspect, who may potentially harm the [redacted]. He said the obvious intent was to quickly get in the suspect's residence, and rescue the [redacted]

Lieutenant Hansen said when the shot went off, Sergeant Johnson called for a crisis entry. There was a quick count down, and then the explosive breach took place. Entry was initiated and the [redacted] was rescued and taken out of the location to the fire department paramedics at the command post for medical evaluation. The suspect was pronounced dead by Emergency Services Detail (ESD) paramedics at the scene.

Lieutenant Hansen stated the actions of the special weapon's team in relation to force used is the same as the Sheriff's Department use of force policy.

The following is an excerpt from Lieutenant Hansen's transcripts on Page 15, Line 9:

Quichocho: Now, does SEB have a criteria or use a criteria to just, what you just exactly said right there, was there, like, a checklist that you go through?

Hansen: No, no. Basically, it's a -- and this is what's funny. This is what a lot of our executives don't seem to understand is that it's just the Sheriff's Department force

policy. You can use deadly force in defense of a life that's threatened, you know, to protect yourself or to protect somebody else that's an imminent threat. And the fact that there's -- there's a confusion in this area with a lot of people, and I'll tell you why.

Because you know this, most shootings that occur on this department, most shootings that occur in law enforcement are reactive in nature. He pointed a gun at me, so I shot at him. He shot at me, so I shot at him. He had a black silvery object in his hand, he was pointing at me so I felt it was a gun and I felt fear for my life, I shot.

They're typically very reactive. Occasionally, SEB gets a shooting like this that is not so much reactive. It's a thing where we take the initiative but it's because there is still an ongoing threat. The threat was to the [redacted] We perceived a very clear and immediate and on-going threat to the safety of that [redacted] And if we feel that we can save that [redacted]s life and end that threat, if we feel that we have a very high probability of doing that with a shot to that suspect by eliminating that suspect, then the way we train and have been taught, that's not just -- it's our obligation. It's a duty to perform, actually, you have a duty to use force just like you do in any other situation to protect yourself or protect somebody else' life.

It just seems a little different to people because it's sometimes done from a distance with a long rifle and it's initiated by us and we say if we have a clear shot, we're gonna do this, but the threat was very real and it was ongoing and it's the exact same force policy. It's just -- there's nothing any different in terms of policy training, protocols, anything like that.

Lieutenant Hansen stated there is a protocol between SEB and CNT regarding barricaded and hostage situations in that CNT will be notified and respond to such incidents, which they did in this instance. He said Lieutenant Ramirez from CNT had arrived at the command post and began working the problem to the best of his ability. He said Lieutenant Ramirez chose to work through Detective [redacted] since he had already established a rapport with the suspect.

In reference to a protocol as far as command structure is concerned, Lieutenant Hansen stated the Incident Commander is in charge of the entire incident, and the SWT Team Commander and CNT Team Commander are on equal footing, and both report to the Incident Commander. Both the SWT Commander and the CNT Commander report to the Incident Commander and keep him/her apprised of what their recommendations are and their actions. He added that as a normal part of protocol, the SWT and CNT commanders work closely together, train regularly with one another, and keep each other apprised of what is going on during tactical incidents.

During incidents when CNT is not available or delayed, Lieutenant Hansen said SEB is trained to negotiate. He said several of the SEB Sergeants, Scouts and weapon's team personnel are sent to LAPD's negotiations school and they try to keep current with CNT's methods as a way of understanding their protocol's and negotiations strategy.

The following is an excerpt from Lieutenant Hansen's transcripts on Page 17, Line 1:

> I want to be very very clear on something here. My job at SEB, our job at SEB is to save lives, period. And I spent approximately 20 years at SEB, and I don't think -- I think in cases where I was either supervising as the team leader or the team commander, I think there's only been three people that were shot under my command, you know, during -- during an incident where I commanded in 20 years of handling high-risk situations. I believe very firmly that our job is to save lives, and I believe that we do our best work at SEB when we manage to save somebody that patrol or detectives probably would have shot and that we do our work as safely as we can and we avoid shootings at all cost.
>
> All that being said, we also believe that there is a priority of life that there, you know, when you have a situation where people are in peril and we, basically have innocent victims that we place at that highest level and our own safety at the second level and the suspect's at the third level. And if we can save all three then that's great, but we still consider it a win if we have to eliminate that suspect in order to save that victim. And this was a clear cut case to us in which we felt that this victim was in immediate and ongoing danger, and it was our -- not just an opportunity, it was an obligation to save that [redacted] and make most of the opportunity that can be fleeting.
>
> So for that being said, we work very closely with CNT. We do everything we can to negotiate people out. I would never be so stupid as to send my people in on an entry or try to manipulate some sort of a shooting where we could negotiate a settlement. But we -- it's important to note that we had tried to negotiate this for quite sometime with this gentleman and at any moment in my mind, he could have easily shot that [redacted] in the head and shot himself and we've seen that happen many times before where people shoot their [redacted] before they shoot themselves, and we weren't gonna let that happen on our watch.

Lieutenant Hansen provided the following time line regarding the incident:

2112 hours: Notification was made to him re: Barricaded suspect
2210 hours: Formal Crisis Entry Team was staged with a plan in place.
2225 hours: Relatives spoke to suspect. Suspect stated he was not going to release the [redacted].
2227 hours: Explosive breach placed on the front door for positive breach/diversionary tactic.
2230 hours: Long rifle spots suspect in the kitchen window with [redacted] next to him.
2258 hours: Shot taken by Deputy Gallegos; rear containment sniper.

Lieutenant Hansen explained that there are training materials, power point presentations, and handouts concerning SEB's relationship with CNT, during hostage rescue incidents.

Regarding this incident, Lieutenant Hansen stated the following excerpt from his transcripts on Page 20, line 6:

> What's very important to understand in this shooting and it's one of the -- one of the areas of controversy or discussion or whatever because people don't do this on a daily basis and they don't understand. Is that just because you have a command framework in place, just because you have normal protocols in place does not mean that a deputy sheriff can't take action on their own. They are empowered to act and that's very -- I had, you know, I had a discussion with Sheriff Baca about this.
>
> We don't abdicate our -- abdicate our authority. Abdicating your authority is not empowering your people. It's two different things. We empower our people to act if they feel that they can solve the problem. And let me put it to you in a little different perspective so you can think about this.
>
> If -- if Deputy Gallegos had seen the [redacted] standing next to that window and that window was open and Deputy Gallegos thought that he could run up and grab that [redacted] and pull that [redacted] out of there, you know, without shooting anybody, just get the [redacted] away, no one would expect us talk to anybody about it. Nobody would have any complaints about it and there would be no concern whatsoever. If he went up and grabbed that kid and got away from that, we would just turn it into a straight barricade it would be great. No one would say, "Well, who gave him authority to go do that on his own?" You know?
>
> But because he shot somebody on his own, then it's, "Well, who gave the order to shoot," and all that kind of stuff. That's not how it works. It's not how it works, just like in the field. A 21-year-old deputy sheriff out in a radio car has the right, is empowered to take a shot if that deputy feels like he's got to protect himself or some other citizen. He doesn't have to ask his lieutenant. He doesn't have to ask the commander, doesn't have to ask anybody, and that's what happened in this case.
> It's very clear. Deputy Gallegos saw an opportunity to save that [redacted]'s life. He saw that suspect clearly for the first time, had a chance to take that suspect out, knew he could do it because of his skill level, and he seized that opportunity to save that [redacted]'s life. And it's no different than if cal Gallegos went over there and grabbed that kid out of the window when the suspect wasn't looking.
>
> And the heartache here that some people seem to be having is that, you know, I didn't run over to the CNT lieutenant and whatever and the team commander and go "Hey, we got a chance to shoot this guy, do this thing," ba, ba, ba, you know? Like that. That should be -- that should be understood by all parties involved.

Andy Ramirez, the CNT lieutenant, and any Incident Commander who has been to any incident command school should realize that if we see a clear opportunity to solve this problem and save this [redacted]'s life, we have an obligation to do it and we're gonna do it. And empowering your people to do that is not the same as just not, you know, following the command structure and all that. So -- so 90 percent of the time -- no 95/99 percent of the time at S.W.A.T. operations, we very very carefully follow this command protocol where I go, "Andy, we'd like to do this . What do you think?" "Phil, I think that's a great idea."

And then we go to the team commander -- or incident commander and say, "Sir, we'd like to introduce gas," or we'd like to do this or "Make an entry at this point." And it goes up and down the chain and everybody is happy with it and that's how 99 percent of S.W.A.T. operations go.

This was a little different because this deputy took action based on a common knowledge of law, policy, training and the situation at hand here, that deputy was empowered to act and he did. And what's happened here is that since people are used to that, 99 percent of the time where we go all up and down the chain and everybody agrees before we move, it throws them off a little bit. They go, "Whoa, what happened here?" Why didn't we go up and down and sideways and go through all this stuff, and the fact of the matter is it's according to policy and training and law and it's perfectly legal, perfectly justified. This deputy took action to save a life out there, and we were prepared for that. As soon as he did that, crisis entry team was called for, the breach goes, we get the [redacted] get out of there, and it was no effort to circumvent the command authority in place. It was just a matter of of seizing an opportunity when it presented itself, and that is part of our normal training and our normal protocol.

Lieutenant Hansen stated SEB does not operate under the green light/red light system. He said it is up to the individual deputy sheriff to pull the trigger if they feel they understand the circumstances and can mitigate the threat and have an obligation to do so. He said he provided the information to deputy personnel, and they needed to reach a decision.

In reference to command authority, Lieutenant Hansen stated the Incident Commander has the overall command of the entire incident. He said as a practical matter, Incident Commanders will not relinquish authority, but empower others to do other things based on areas of expertise. During special weapons operations, Lieutenant Hansen said Incident Commanders typically empower them to conduct actions and then it is his responsibility to stay in contact with the Incident Commander apprising them of their plans. He added the Incident Commander retains overall command of the incident; however, there are times when they have to act quickly to protect either themselves or somebody else, and this incident was one of those times.

Lieutenant Hansen stated Deputy Gallegos' actions were consistent with their training and protocols when confronted with an opportunity to end the problem and save the hostage.

Lieutenant Hansen added the following excerpt from his transcripts on Page 29, Line 10:

> And, you know, I just like to point out that opportunities are fleeting, you know? They -- just because they happen once doesn't mean they're gonna happen again. If that guy appears at the window the way he did and we could solve the problem and we elected not to solve the problem and five minutes later he murders that [redacted] then, quite frankly, shame on us is how I believe. Now there's some people that have less conscience, in my mind, that would say, "Well, that's not our fault. We didn't do it," you know, "he did it," but I don't see it that way. I see that we have the opportunity to save a life and we pass on it, then that life has been taken, then we share some of the blame and that's just a personal conviction, but I believe that most of the personnel at SEB share that same conviction.

During a barricaded or hostage rescue incident, Lieutenant Hansen said CNT is notified by SEB desk personnel as part of the team notification. He stated CNT Lieutenant Ramirez arrived at the command post about an hour or so after the call-out.

Lieutenant Hansen said he recalled Lieutenant Ramirez telling him he was going to leave Detective [redacted] on the phone with the suspect; however, he was called back to the command post from his original position, which was inside the front house.

The following is a time line from a power point presentation of the shooting prepared by Lieutenant Hansen for members of SEB, who were not involved in the hostage rescue incident.

2045 hours: Century Station got the response to a shooting call at Los Flores.
2111 hours: SEB Gray Team notified. Lt. Hansen was notified one minute later by SEB desk that we had a potential hostage situation.
2113 hours: SEB canine officers started arriving at the location.
2125 hours: Lt. Hansen relayed information over the SEB special units dispatch that the Century watch deputy told him the suspect said he was suicidal and he was not giving up the baby and would not come out alive.
2128 hours: SEB Gray Team members arrive and join up with canine units, who initially formed a crisis entry team.
2129 hours: Detective [redacted] was on the telephone with the suspect. Stated he heard a baby crying or he could hear a baby crying in the background. During the course of the SEB deployment, a chain-link fence was breached by crisis entry team along the two side of the property to allow immediate access towards the front door of the target.
2210 hours: Formal Crisis Entry team staged. The original one was kind of hasty. The plan in place included window porting and an explosive charge

on-site. Long rifleman up with M4's on place on three sides covering the primary entry point and the area of anticipated movement by the suspect.

2225 hours: Broadcast information regarding [redacted] s statement about suspect stating the next time she saw him he would be in a coffin.

2227 hours: Suspect was back on line with Deputy [redacted] Explosive breach placed on door.

2230 hours: Long rifleman, Oscar Barragan, put out information, that he saw the suspect at the kitchen window holding a [redacted] next to him.

2253 hours: Scout team leader, Deputy Joe Palomino, briefed the team of the detailed crisis entry plan over the radio, and the explosive breach sequence.

2258 hours: Shot fired. One shot put out by Deputy Cal Gallegos. Immediately after shot was fired, a compromise command was given and the explosive breach was initiated. The crisis entry team made entry into the door and found the suspect down and the [redacted] adjacent to the suspect.

[redacted] rescued.

2259 hours: Team Leader advised that the hostage had been rescued and the shot had been taken by long rifle containment personnel and one suspect down.

2305 hours: ESD pronounced the suspect dead.

Interview terminated at 1146 hours.

IAB Note: Refer to a copy of Lieutenant Hansen's transcribed interview for further detail.

Lieutenant Andres Ramirez, Employee #[redacted] was interviewed on September 17, 2009, at about 1339 hours, at Field Operations Region II Headquarters. The interview was tape recorded and the following is a summary of the interview.

Lieutenant Ramirez stated his responsibilities are to manage the volunteer negotiators of the department, who respond to barricaded, hostage situations, and suicides in progress or other incidents where an Incident Commander feels the need for a Crisis Negotiations Team (CNT).

During call-outs, or notifications, the primary method would be through the Special Enforcement Bureau desk. The second way would be through Sheriff's Headquarters Bureau. He said there was no specific response times to call-outs based on the volunteer unit status, off hours deployment, and various response locations throughout the county.

Lieutenant Ramirez said he received the notification regarding a hostage rescue call-out at 2130 hours from the Special Enforcement Bureau (SEB) desk.

Lieutenant Ramirez stated CNT and SEB have the same mission in regards to resolving a situation or problem that involves a barricaded or hostage situation; however, their approach is different, in that SEB handles the tactical aspect of the operation, while CNT focuses on the negotiation style to resolve it. He said throughout the year, SEB and CNT are involved in training days which focus on various aspects of the environment. He pointed out that there is no specific policy for CNT, and the only policy addressing the role and responsibility for CNT is what is in the manual of policy and procedures concerning barricaded and hostage rescue incidents.

After receiving the initial call-out at 2130 hours, Lieutenant Ramirez said he contacted five other CNT negotiators. He then responded Code 3, red lights and siren, to the commanded post and arrived at about 2230 hours. He then contacted Lieutenant Hansen, SEB Team Commander, and Lieutenant Eli Vera, Century Station Watch Commander (Incident Commander) and received a briefing of the incident.

The information Lieutenant Ramirez received from Lieutenant Vera was that a suspect shot his [redacted] and barricaded himself in his home. The suspect, who had been drinking, refused to come out of the home and surrender, in addition to having a small [redacted] in the home with him. The victim was already transported to the hospital. Other information included a uniformed deputy named, [redacted] who made telephonic calls into the suspect's home and established communication with the suspect. He was also advised that relatives of the suspect were allowed to communicate with him via a telephone intermittently, and that the conversations were short, yet on-going. The nature of the phone calls consisted of the suspect answering the phone, speaking for a short time, then hanging up, which was the pattern from the beginning of the incident. Additional information gained from the Incident Commander was that the suspect made no threats to harm others, only himself, and he either did not want to come out alive or he was refusing to come out alive. The suspect made no demands from anyone, but was seen at a window, holding a [redacted] in his arms, either looking out or trying to yell out the window.

Lieutenant Ramirez said he then requested Deputy [redacted] to return to the command post, as he was out at the scene communicating with the suspect and relaying information to the deputies on containment. He said the purpose of pulling Deputy [redacted] back to the command post was to interview him and determine the nature of his conversations with the suspect. During his interview of Deputy [redacted] Lieutenant Ramirez said he suggested that CNT negotiators take over direct communications with the suspect via a telephone, which was agreed upon by Lieutenant's Vera and Hansen.

While Deputy [redacted] was being interviewed by CNT, and the process of selecting a CNT negotiator was under way, Lieutenant Ramirez was notified that a shot had been fired and entry was being made by the crisis team. Shortly, thereafter, information was relayed that the suspect was down. This terminated CNT's involvement.

During follow-up questioning, Lieutenant Ramirez stated he also received information from Lieutenant's Vera and Hansen that the suspect told his relatives, via phone contact, that he would be seen in a coffin the next time they saw him. He said he interpreted the threats as self-inflicting, as in indicating or suggesting he was either willing to die or wanted to hurt or kill himself.

Lieutenant Ramirez said after he arrived at the command post, CNT negotiators began arriving and he tasked them with different assignments. He estimated that from the time of his arrival to the time the suspect was shot was about twenty to twenty-five minutes. Lieutenant Ramirez said he was comfortable with Deputy [redacted] when he established initial contact with the suspect and that a dialogue was occurring between the suspect and deputy personnel. He said it was a good sign that the suspect was alive and talking to Deputy [redacted] as it kept him busy while they were working to resolve the situation both tactically and through negotiations. He added it was a positive indicator for him that a dialogue was occurring; however, he was not comfortable with receiving second or third-hand information as to the conversations between Deputy [redacted] and the suspect; therefore, he decided it was operationally necessary to remove him from the target location and brought back to the command post in order to hear exactly what was being said between the two of them. By bringing Deputy [redacted] back to the command post, CNT would be able to interpret the conversations and give their opinions to the Incident Commander. Although Deputy [redacted] was not a trained negotiator, Lieutenant Ramirez said he did very well by establishing rapport with the suspect and was satisfied in that point.

Lieutenant Ramirez said he asked Deputy [redacted] to describe and assess the demeanor of the suspect, of which he replied the suspect did not sound like he was under the influence of drugs or alcohol, and that he was carrying a good conversation with him, that the suspect was lucid and understood what was being asked, and also responded to his questions.

Lieutenant Ramirez said from the time Deputy [redacted] was ordered back to the command post to the time the shot was taken was about ten minutes.

Lieutenant Ramirez stated he believed the incident rose to a higher level than that of a hostage situation due to the suspect not making any specific threats to the [redacted] and any specific demands of anyone. He said the incident was probably a higher risk because the focus of the suspect's anger was of a personal nature. He stated the suspect may have been a little bit more emotionally attached to the situation and his anger focused on something other than the police or anything like that.

The following is an excerpt from Lieutenant Ramirez's transcripts on Page 14, Line 9:

Ramirez: So, you know, from the outside it looks like a hostage situation and it should be treated as one because it's very volatile, it's very dynamic, there's innocent parties in there. But, and you have a third party which happened to be the [redacted] but it fell a little short of being a hostage situation only because initially, that doesn't mean it can't, you know, end up in a hostage situation because there was no specific threats or demands being made. So, you know, from the outside, it looks like a hostage situation but it's -- if you don't have the threats or demands, then it doesn't meet the traditional definition of a hostage situation.

Quichocho: So you were using the model of a traditional hostage situation. This incident fell short just based on one criteria, which was the suspect making some sort of a demand. Was that the only criteria missing from -- from this thing being, you know, put under the direct category or, as you said, you know, under the traditional hostage situation?

Ramirez: Right. There was no specific demands. In other words, he didn't ask for, you know, "I want a car to get out of here. I want," you know, "food." Or I want to exchange, you know, this for that. There was no demands for this. There was no specific threats like the hostage-taker would say, "If I don't get my food here, then I'm gonna shoot a hostage." Okay, that's a specific threat to an individual. This didn't have those, at least, I was not told of those occurring, but that doesn't mean it wasn't anymore dangerous than what it was. And, like I said, I considered it even more dangerous than a hostage situation.

Quichocho: That's not to say that within the next 30 seconds, minute, five minutes, that if this prolonged itself that the hostage -- or the suspect would have made some sort of demand? We'll never know because the shot was taken.

Ramirez: Right. Well, you know, we don't -- we never know. We cannot predict exactly what that individual is gonna do because we would have to have clairvoyance ability to do that. So we act on probability. Yeah, it's possible that he could escalate this and either directly harm himself or harm the [redacted] and or he could start asking for demands or make additional threats or it could continue to evolve.

Lieutenant Ramirez concluded the interview with the following on Page 19, line 25:

Quichocho: What you know, obviously it ended the way it ended. What was your take after the whole thing was over with and you went through it over in your mind, as far as a resolution could have been?

Ramirez: Well, the -- the obvious and most appropriate resolution would have been that nobody got hurt, but a lot of times we can't control that. I think overall, I think patrol did a very good job of responding to this and requesting the resources that they did. I think the SWAT team was also appropriate in their response and their evaluation and as well as the negotiators who is responded. Everybody was doing their -- their job and their responsibility.

And the -- the individual acts or circumstances that were all put together at that point in time, came about, you know, from the natural course of the event and at some point, you have to have a resolution. The positive resolution would have been for everybody to walk away safely, but many times that's not possible. It's driven by the set of circumstances, and this one, unfortunately, had a circumstance that no other third parties were injured, no deputy personnel was injured and the suspect lost his life.

Quichocho: Okay. I'm about done with my questions here. Before we wrap this up, is there anything else you want to add regarding this situation on your part?

Ramirez: No, other than I think overall the operation worked well. I think everything was done according to policy from what I can see. The policy that we currently have, the practices that we've developed over the years on this department in handling these type of situations, the command and control aspect of it worked really well, you know? The SWAT lieutenant, myself, and the incident commander were all communicating. We were making decisions based on the information that we were getting and, you know, we came together. We came up with plans we implemented and I think everything they did, meaning the SWAT team, patrol and CNT was consistent with how we were trained, consistent with our policies and our practices, and I'm satisfied that we did the best we could based on what was happening that night.

I want to commend Deputy [redacted] did an outstanding job. I was glad to see that he initiated that contact. This is what we train all our deputy sheriffs from the time they come onto the academy to initiate communications. So he did a very good job of doing that. And everybody else that was involved, as far as I'm concerned, did a very good job.

The interview was terminated at 1445 hours.

<u>IAB Note:</u> Refer to a copy of Lieutenant Ramirez's transcribed interview for further details.

SUSPECT'S INJURIES:

Deceased.

DEPUTY PERSONNEL INJURIES:

None.

PHYSICAL EVIDENCE:

Collected by Scientific Services Bureau, Crime Scene Investigators:

Lab Receipt #J973792:

Item 1: One fired 9mm Luger caliber cartridge case ("WIN" headstamp).

Item 3 & 4; Two live 22 Long Rifle caliber cartridges ("C" headstamp).

Item 5: One fired bullet.

Lab Receipt #J973791

Item 2: One Astra, Model Constable, 22 Long Rifle caliber semiautomatic pistol bearing the serail number1198439; one magazine; and five 22 Long Rifle caliber cartridges ("C" headstamp).

IAB Note: Refer to Exhibit A, for further details.

INVESTIGATORS OBSERVATIONS:

None.

WEAPONS USED BY DEPUTY PERSONNEL:

DEPUTY CLARENCE GALLEGOS

Service Weapon: Heckler & Koch, Model MP-5, 9mm Luger caliber submachine gun bearing serial number 62-391329.
Type of Ammunition: 9mm Luger caliber cartridges.
Ammunition: One round fired and (29) live 9mm Luger caliber cartridges in a magazine.
Shell Casings: N/A
Date Employee Last Qualified: (Mobile Range): [redacted] H&K MP-5
Date Last Trained With Weapon: [redacted]

Laser Village: [redacted]
Lab Receipt No. J973790, Los Angeles County Sheriff's Department- Scientific Services Bureau, Firearms Identification Section **(Refer to Exhibit A).**

WEAPONS USED BY SUSPECTS:

Handgun, hostage taker, uncooperative, non-compliant, and refusal to release [redacted] hostage.

PROPERTY DAMAGE:

Front door of suspect's residence due to explosive breach entry and damaged rear window.

CRIMINAL INVESTIGATOR and CHARGES FILED:

Investigator:	LASD Homicide Detectives Angus Ferguson and Jonas Shipe
Court:	N/A
Charges Filed:	N/A
Case Status:	N/A

WEATHER CONDITIONS AND LIGHTING CONDITIONS:

The incident occurred during the hours of darkness and the weather was clear.